

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY CARACAS IMMEDIATE

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TAGS: PFOR, ENRG, EINV, VE, US

SUBJECT: PRESS GUIDANCE ON FOREIGN INVESTMENT AND
NATIONALIZATION

1. FOLLOWING STATEMENT TO BE DISTRIBUTED AT DEPARTMENT
NOON PRESS BRIEFING DECEMBER 30: QUOTE: FOREIGN INVEST-
MENT AND NATIONALIZATION.

THERE HAVE BEEN SIGNIFICANT DEVELOPMENTS DURING THE
PAST YEAR CONCERNING FOREIGN INVESTMENTS BY US PRIVATE
FIRMS. THE SECRETARY, AT THE 7TH SPECIAL SESSION ON
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SEPTEMBER 1 AND AT CIEC DECEMBER 16, EMPHASIZED THE US

BELIEF THAT FOREIGN PRIVATE INVESTMENT CAN MAKE A VERY SUBSTANTIAL CONTRIBUTION TO ECONOMIC DEVELOPMENT. THERE HAVE ALSO BEEN A NUMBER OF ACTUAL OR CONTEMPLATED NATIONALIZATIONS INVOLVING US FIRMS, AND ENSUING SETTLEMENT NEGOTIATIONS. IN THESE CIRCUMSTANCES, THE DEPARTMENT WISHES TO REITERATE PERTINENT US POLICY.

THE PRESIDENT OF THE UNITED STATES, IN JANUARY 1972, DREW ATTENTION TO THE IMPORTANCE WHICH THE UNITED STATES ATTACHES TO RESPECT FOR THE PROPERTY RIGHTS OF ITS NATIONALS. HE STATED THAT THE POLICY OF THE UNITED STATES CONCERNING EXPROPRIATORY ACTS INCLUDES THE POSITION THAT:

QUOTE: UNDER INTERNATIONAL LAW, THE UNITED STATES HAS A RIGHT TO EXPECT:

-- THAT ANY TAKING OF AMERICAN PRIVATE PROPERTY WILL BE NONDISCRIMINATORY;

-- THAT IT WILL BE FOR A PUBLIC PURPOSE; AND

-- THAT ITS CITIZENS WILL RECEIVE PROMPT, ADEQUATE, AND EFFECTIVE COMPENSATION FROM THE EXPROPRIATING COUNTRY. UNQUOTE.

WITH REGARD TO CURRENT OR FUTURE EXPROPRIATIONS OF PROPERTY OR CONTRACTUAL INTERESTS OF US NATIONALS, OR ARRANGEMENTS FOR QUOTE PARTICIPATION UNQUOTE IN THOSE INTERESTS BY FOREIGN GOVERNMENTS, THE DEPARTMENT OF STATE WISHES TO PLACE ON RECORD ITS VIEW THAT FOREIGN INVESTORS ARE ENTITLED TO THE FAIR MARKET VALUE OF THEIR INTERESTS. ACCEPTANCE BY US NATIONALS OF LESS THAN FAIR MARKET VALUE DOES NOT CONSTITUTE ACCEPTANCE OF ANY OTHER STANDARD BY THE UNITED STATES GOVERNMENT. AS A CONSEQUENCE, THE UNITED STATES GOVERNMENT RESERVES ITS RIGHTS TO MAINTAIN INTERNATIONAL CLAIMS FOR WHAT IT REGARDS AS ADEQUATE COMPENSATION UNDER INTERNATIONAL LAW FOR THE INTERESTS NATIONALIZED OR TRANSFERRED. UNQUOTE.

2. GUIDANCE FOR POSSIBLE QUESTIONS BASED ON THE ABOVE LIMITED OFFICIAL USE

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STATEMENT FOLLOWS. EMBASSY SHOULD DRAW UPON GUIDANCE ON AN IF-ASKED BASIS ONLY. QUOTE:

Q: WHAT ARE THE SPECIFIC COUNTRIES THAT HAVE TAKEN NATIONALIZATION ACTIONS?

A: THERE ARE A NUMBER, BUT OUR INTENTION IS NOT TO SINGLE ANY OUT. THIS IS A GENERAL STATEMENT OF POLICY,

GENERALLY APPLICABLE TO ALL US FOREIGN INVESTMENTS IN ALL COUNTRIES.

Q: HOW WOULD THIS STATEMENT APPLY TO VENEZUELA'S OIL NATIONALIZATION?

A: WE ARE NOT DIRECTING THIS TO SPECIFIC CASES. RATHER, WE ARE MAKING A GENERAL STATEMENT AND REITERATION OF OUR POSITION.

Q: WHAT GOOD THEN, IF INDIVIDUAL COUNTRIES ARE NOT DISCUSSED, IS IT FOR US TO NOW MAKE THE STATEMENTS? HOW WILL WE FOLLOW THROUGH?

A: THIS IS A STATEMENT OF THE POLICY THE US IS FOLLOWING AND WILL FOLLOW IN EACH CASE AND FORUM WHERE IT IS PERTINENT. IT IS THE VIEW THAT WE HAVE REPEATEDLY EXPRESSED CONCERNING INDIVIDUAL NATIONALIZATION CASES. MOREOVER, IT IS A BASIS FOR THE POSITIONS THAT WE ARE TAKING IN INTERNATIONAL (UN, OECD AND OAS) DISCUSSIONS OF THE POSITION OF MNCs IN FOREIGN COUNTRIES AND THE OBLIGATIONS OF FOREIGN GOVERNMENTS TOWARD THEM. THE SECRETARY HAS RECENTLY REITERATED THE IMPORTANCE THE US ATTACHES TO THE POSITIVE ROLE OF FOREIGN PRIVATE INVESTMENT TO ECONOMIC DEVELOPMENT. THE US BELIEVES IN A FRAMEWORK OF INTERNATIONAL LAW THAT IS CONDUCIVE TO A FREER FLOW OF PRIVATE INVESTMENT AND THE BENEFITS OF CAPITAL FORMATION AND TECHNOLOGY TRANSFER THAT FOLLOW FROM IT. ROBINSON

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